

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA :

:

:

v. :

:

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Crim. No. 2:00-CR-323-09

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JESSE OPHER :

STIPULATION ON REDUCTION OF SENTENCE

The parties in the above-captioned action respectfully stipulate as follows:

1. On November 1, 2014, Amendment 782 to the United States Sentencing Guidelines was enacted, which reduces by two levels the offense levels assigned to most drug quantities under U.S.S.G. §2D1.1(c). This amendment is fully retroactive, effective November 1, 2015, pursuant to the terms of 18 U.S.C. § 3582(c)(2) and U.S.S.G. §1B1.10.

2. The defendant, JESSE OPHER, was sentenced on April 18, 2002 to LIFE imprisonment, based on conspiracy to distribute narcotics (cocaine and crack cocaine).

3. Because Mr. Opher was sentenced to life, he has no projected release date.

4. The Sentencing Commission has established that courts shall apply the retroactive amendment by “substituting only the amendments listed in subsection (c) for the corresponding guideline provisions that were applied when the defendant was sentenced and shall leave all other guideline application decisions unaffected.” U.S.S.G. §1B1.10(b)(1).

5. The Sentencing Commission has further established that a court shall not reduce the defendant’s term of imprisonment under 18 U.S.C. § 3582(c)(2) to less than the bottom of the amended guideline range, except to reflect the defendant’s substantial assistance to authorities. U.S.S.G. §1B1.10(b)(2)(A) and (B).

6. Thus, defendant's total calculations after receiving the benefit of the retroactive amendment would be as follows:

Original Sentence	
Amount of Drugs	41,000 to 133,000 kg marijuana ¹
BOL §2D1.1(c)(1) (2001)	38
§2D1.1(b)(1) (possession of dangerous weapon)	+2
§3B1.1(a) (role in offense)	+4
§3B1.4 (use of minor)	+2
Total Adjusted BOL	46
Guideline Range (CHC II)	LIFE
Sentence Imposed	LIFE
Application of 2014 Amendment	
Amount of Drugs	16,356 to 50,855 kg marijuana ²
BOL §2D1.1(c)(3)	34 ³
§2D1.1(b)(1) (possession of dangerous weapon)	+2
§3B1.1(a) (role in offense)	+4
§3B1.4 (use of minor)	+2
Total adjusted offense level	42
Guideline Range (CHC II)	360 months to LIFE
Sentence Imposed	360 months

¹ This quantity range is based on 50 to 150 kg cocaine (10,000 to 30,000 kg marijuana); 1.5 to 5 kg of crack (30,000 to 100,000 kg of marijuana); and 1 to 3 kg of heroin (1,000 to 3,000 kg of marijuana). See PSR, ¶ 63.

² The difference results from the change to the drug equivalency table (i.e., one gram of crack cocaine is now deemed the equivalent of 3,571 gr of marijuana, meaning that 1.5 to 5 kg of crack is now the equivalent of 5,356.5 to 17,855 kg of marijuana). The marijuana equivalents for cocaine and heroin remain the same.

³ The quantities at the higher end of the range yield a base offense level of 36, but the parties agree to utilize the lower offense level of 34 for purposes of this stipulation.

7. The government takes no position concerning whether the defendant presents a danger to any person or to the community.

8. Therefore, the parties stipulate to the retroactive application of the sentencing amendment and hereby request that the Court amend defendant's judgment, pursuant to 18 U.S.C. §3582(c), to 360 months imprisonment, to be followed by five (5) years of supervised release, with the remaining provisions of the April 18, 2002, judgment being re-incorporated therein.

Date: April 21, 2017

Respectfully submitted,



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